

Exhibit B-10

**Interpretation of the Supreme People's Court and the Supreme People's
Procuratorate on Several Issues concerning the Application of Law in the
Handling of Criminal Cases of Infringing on Citizens' Personal Information**
[Effective]

【Print】

最高人民法院、最高人民检察院关于办理侵犯公民个人信息刑事案件适用法律若干问题的解释 [现行有效]

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Announcement of the Supreme People's Court and the Supreme People's Procuratorate

最高人民法院、最高人民检察院公告

The Interpretation of the Supreme People's Court and the Supreme People's Procuratorate on Several Issues concerning the Application of Law in the Handling of Criminal Cases of Infringing on Citizens' Personal Information, as adopted at the 1712th meeting of the Judicial Committee of the Supreme People's Court on March 20, 2017 and at the 63rd meeting of the Twelfth Procuratorial Committee of the Supreme People's Procuratorate on April 26, 2017, is hereby issued and shall come into force on June 1, 2017.

《最高人民法院、最高人民检察院关于办理侵犯公民个人信息刑事案件适用法律若干问题的解释》已于2017年3月20日由最高人民法院审判委员会第1712次会议、2017年4月26日由最高人民检察院第十二届检察委员会第63次会议通过，现予公布，自2017年6月1日起施行。

Supreme People's Court

最高人民法院

Supreme People's Procuratorate

最高人民检察院

May 8, 2017

2017年5月8日

Interpretation of the Supreme People's Court and the Supreme People's Procuratorate on Several Issues concerning the Application of Law in the Handling of Criminal Cases of Infringing on Citizens' Personal Information

最高人民法院、最高人民检察院关于办理侵犯公民个人信息刑事案件适用法律若干问题的解释

(Interpretation No. 10 [2017] of the Supreme People's Court, adopted the 1712th meeting of the Judicial Committee of the Supreme People's Court on March 20, 2017 and at the 63rd meeting of the Twelfth Procuratorial Committee of the Supreme People's Procuratorate on April 26, 2017, and coming into force on June 1, 2017)

(2017年3月20日最高人民法院审判委员会第1712次会议、2017年4月26日最高人民检察院第十二届检察委员会第63次会议通过，自2017年6月1日起施行法释〔2017〕10号)

For the purpose of lawfully punishing the criminal activities of infringing upon citizens' personal information, and protecting citizens' personal information security and legitimate rights and interests, in accordance with the relevant provisions of the **Criminal Law of the People's**

为依法惩治侵犯公民个人信息犯罪活动，保护公民个人信息安全和合法权益，根据《中华人民共和国刑法》《中华人民共和国刑事诉讼法》的有关规定

Republic of China and the Criminal Procedure Law of the People's Republic of China, several issues concerning the application of law in the handling of such criminal cases are hereby interpreted as follows:

Article 1 "Citizens' personal information" as prescribed in Article 253A of the Criminal Law means all kinds of information recorded in electronic form or any other form, which can be used, independently or in combination with other information, to identify a specific natural person's personal identity or reflect a specific natural person's activities, including the natural person's name, identity certificate number, communication and contact information, address, account password, property status, and whereabouts, among others.

Article 2 Whoever violates the provisions of any law, administrative regulation or departmental rule on the protection of citizens' personal information shall be determined as "violating the relevant provisions of the state" as prescribed in Article 253A of the Criminal Law.

Article 3 Whoever provides any citizen's personal information to a specific person or issues any citizen's personal information through an information network or any other channel shall be determined as "providing citizens' personal information" as prescribed in Article 253A of the Criminal Law.

Whoever provides any citizen's personal information legally collected to any other person without the consent of the person whose information is collected shall fall within the scope of "providing citizens' personal information" as prescribed in Article 253A of the Criminal Law, except that the information has been processed in a manner that it is impossible to distinguish a specific person and it cannot be retraced.

Article 4 Whoever obtains any citizen's personal information by means of purchase, acceptance or exchange, among others, or collects any citizen's personal information during the performance of functions or provision of services in violation of the relevant provisions of the state shall fall within the scope of "illegally obtaining any citizen's personal information by other methods" as prescribed in paragraph 3 of Article 253A of the Criminal Law.

Article 5 Whoever illegally obtains, sells or provides any citizen's personal information and falls under any of the following circumstances shall be determined as a "serious circumstance" as prescribed in Article 253A of the Criminal Law:

(1) Selling or providing the information on the citizen's whereabouts which is used by any other person for committing a crime.

(2) Selling or providing the citizen's personal information to any other person when it or he knows or should have known that the other person uses such information to commit a crime.

定, 现就办理此类刑事案件适用法律的若干问题解释如下:

第一条 刑法第二百五十三条之一规定的“公民个人信息”，是指以电子或者其他方式记录的能够单独或者与其他信息结合识别特定自然人身份或者反映特定自然人活动情况的各种信息，包括姓名、身份证件号码、通信通讯联系方式、住址、账号密码、财产状况、行踪轨迹等。

第二条 违反法律、行政法规、部门规章有关公民个人信息保护的规定的，应当认定为刑法第二百五十三条之一规定的“违反国家有关规定”。

第三条 向特定人提供公民个人信息，以及通过信息网络或者其他途径发布公民个人信息的，应当认定为刑法第二百五十三条之一规定的“提供公民个人信息”。

未经被收集者同意，将合法收集的公民个人信息向他人提供的，属于刑法第二百五十三条之一规定的“提供公民个人信息”，但是经过处理无法识别特定个人且不能复原的除外。

第四条 违反国家有关规定，通过购买、收受、交换等方式获取公民个人信息，或者在履行职责、提供服务过程中收集公民个人信息的，属于刑法第二百五十三条之一第三款规定的“以其他方法非法获取公民个人信息”。

第五条 非法获取、出售或者提供公民个人信息，具有下列情形之一的，应当认定为刑法第二百五十三条之一规定的“情节严重”：

(一) 出售或者提供行踪轨迹信息，被他人用于犯罪的；

(二) 知道或者应当知道他人利用公民个人信息实施犯罪，向其出售或者提供的；

(3) Illegally obtaining, selling or providing more than 50 pieces of information on the citizen's whereabouts, communication contents, credit investigation information and property information.

(4) Illegally obtaining, selling or providing more than 500 pieces of accommodation information, communication records, health and physiological information, transaction information and other personal information of the citizen that may affect his or her personal or property safety.

(5) Illegally obtaining, selling or providing more than 5,000 personal information of the citizen other than that as prescribed in items (3) and (4).

(6) Illegally obtaining, selling or providing the citizen's personal information in a total quantity calculated according to the corresponding proportion reaching the relevant quantity standards.

(7) Illegally obtaining an illegal income of 5,000 yuan or more.

(8) Selling or providing to the any other person the citizen's personal information obtained in the process of performance of functions or provision of services in a quantity or amount reaching more than half of the standards as prescribed in items (3) through (7).

(9) Illegally obtaining, selling or providing the citizen's personal information notwithstanding it or he had ever been given criminal punishment or been given any administrative punishment within two years for infringing upon any citizen's personal information.

(10) Any other serious circumstance.

Whoever commits any of the acts as prescribed in the preceding paragraph and falls under any of the following circumstances shall be determined as an "especially serious circumstance" as prescribed in paragraph 1 of Article 253A of the [Criminal Law](#):

(1) Causing the death, serious injury, mental disorder or abduction of the victim or any other serious consequence.

(2) Causing heavy economic losses or adverse social impacts.

(3) The quantity or amount reaches more than ten times the standards as prescribed in items (3) through (9) of the preceding paragraph.

(4) Any other especially serious circumstance

Article 6 Whoever illegally purchases or accepts any citizen's personal information other than that as prescribed in item (3) or (4), paragraph 1 of Article 5 of this Interpretation for any lawful business activity, and

(三) 非法获取、出售或者提供行踪轨迹信息、通信内容、征信信息、财产信息五十条以上的;

(四) 非法获取、出售或者提供住宿信息、通信记录、健康生理信息、交易信息等其他可能影响人身、财产安全的公民个人信息五百条以上的;

(五) 非法获取、出售或者提供第三项、第四项规定以外的公民个人信息五千条以上的;

(六) 数量未达到第三项至第五项规定标准，但是按相应比例合计达到有关数量标准的;

(七) 违法所得五千元以上的;

(八) 将在履行职责或者提供服务过程中获得的公民个人信息出售或者提供给他人，数量或者数额达到第三项至第七项规定标准一半以上的;

(九) 曾因侵犯公民个人信息受过刑事处罚或者二年内受过行政处罚，又非法获取、出售或者提供公民个人信息的;

(十) 其他情节严重的情形。

实施前款规定的行，具有下列情形之一的，应当认定为[刑法第二百五十三条](#)之一第一款规定的“情节特别严重”：

(一) 造成被害人死亡、重伤、精神失常或者被绑架等严重后果的;

(二) 造成重大经济损失或者恶劣社会影响的;

(三) 数量或者数额达到前款第三项至第八项规定标准十倍以上的;

(四) 其他情节特别严重的情形。

第六条 为合法经营活动而非法购买、收受本解释第五条第一款第三项、第四项规定以外的公民个人信息，具有

falls under any of the following circumstances shall be determined as having "serious circumstance" as prescribed in Article 253A of the Criminal Law:

(1) Making profits of 50,000 yuan or more by utilizing the illegal purchase or acceptance of the citizen's personal information.

(2) Illegally purchase or accepting the citizen's personal information after it or he had ever been given any criminal punishment or been given any administrative punishment within two years for infringing upon any citizen's personal information.

(3) Any other serious circumstance.

Whoever commits any of the acts as prescribed in the preceding paragraph, and illegally sells or provides the citizen's personal information it or he purchases or accepts shall be convicted and sentenced according to the provisions of Article 5 of this Interpretation.

Article 7 Where an entity commits a crime as prescribed in Article 253A of the [Criminal Law](#), the directly responsible person in charge and other directly liable persons shall be convicted and punished according to the corresponding conviction and sentencing standards for a crime committed by a natural person as prescribed in this Interpretation, and a fine shall be imposed on the entity.

Article 8 Whoever launches any website or communications group for committing the illegal or criminal activity of illegally obtaining, selling or providing any citizen's personal information, with serious circumstances, shall be convicted and punished for the crime of illegally using an information network in accordance with the provisions of Article 287A of the [Criminal Law](#); and, where the crime of infringing upon citizens' personal information is constituted at the same time, it or he shall be convicted and punished for the crime of infringing on citizens' personal information.

Article 9 Any network service provider that refuses to perform the information network security management obligation as prescribed in any law or administrative regulation and refuses to take corrective actions after being ordered by the regulatory authority to take correction measures, causing the divulgement of any citizen's personal information and other serious circumstances shall be convicted and punished for the crime of refusing to perform the information network security management obligation in accordance with the provisions of Article 286A of the [Criminal Law](#).

Article 10 Where any crime of infringe upon citizens' personal information committed by a person does not fall within the scope of "especially serious circumstance," and it is the person's first offence, or the offender disgorges all illegal proceeds and truly shows repentance,

下列情形之一的，应当认定为刑法第二百五十三条之一规定的“情节严重”：

(一) 利用非法购买、收受的公民个人信息获利五万元以上的；

(二) 曾因侵犯公民个人信息受过刑事处罚或者二年内受过行政处罚，又非法购买、收受公民个人信息的；

(三) 其他情节严重的情形。

实施前款规定的行为，将购买、收受的公民个人信息非法出售或者提供的，定罪量刑标准适用本解释第五条的规定。

第七条 单位犯刑法第二百五十三条之一规定之罪的，依照本解释规定的相应自然人犯罪的定罪量刑标准，对直接负责的主管人员和其他直接责任人员定罪处罚，并对单位判处罚金。

第八条 设立用于实施非法获取、出售或者提供公民个人信息违法犯罪活动的网站、通讯群组，情节严重的，应当依照刑法第二百八十七条之一的规定，以非法利用信息网络罪定罪处罚；同时构成侵犯公民个人信息罪的，依照侵犯公民个人信息罪定罪处罚。

第九条 网络服务提供者拒不履行法律、行政法规规定的网络信息安全管理义务，经监管部门责令采取改正措施而拒不改正，致使用户的公民个人信息泄露，造成严重后果的，应当依照刑法第二百八十六条之一的规定，以拒不履行信息网络安全管理义务罪定罪处罚。

第十条 实施侵犯公民个人信息犯罪，不属于“情节特别严重”，行为人系初犯，全部退赃，并确有悔罪表现的，可以认定为情节轻微，不起诉或者免予刑

it may be determined as a minor criminal circumstance, and no prosecution may be filed against the person, or the person may be exempted from a criminal punishment; where it is truly necessary to impose punishment thereon, the person shall be subject to lenient punishment.

Article 11 Where any citizen's personal information, after being illegally obtained, is sold or provided to any other person, the number of pieces of the citizen's personal information shall not be calculated repeatedly.

Where the personal information of the same citizen is sold or provided to different entities or individuals, the number of pieces of the citizen's personal information shall be calculated on an accumulative basis.

The number of pieces of citizens' personal information in batch shall be determined directly according to the number discovered and seized, except that there is evidence proving that the information is untrue or repetitive.

Article 12 In the event of any crime of infringing upon citizens' personal information, a fine shall be imposed thereon in accordance with the law by taking a comprehensive consideration of the hazards caused by the crime, the amount of illegal income involved in the crime, and criminal record and confession and repentance attitudes of the defendant, among others. The amount of a fine shall be generally not less than the amount of nor more than five times the illegal income.

Article 13 This Interpretation shall come into force on June 1, 2017.

事处罚；确有必要判处刑罚的，应当从宽处罚。

第十一條 非法获取公民个人信息后又出售或者提供的，公民个人信息的条数不重复计算。

向不同单位或者个人分别出售、提供同一公民个人信息的，公民个人信息的条数累计计算。

对批量公民个人信息的条数，根据查获的数量直接认定，但是有证据证明信息不真实或者重复的除外。

第十二条 对于侵犯公民个人信息犯罪，应当综合考虑犯罪的危害程度、犯罪的违法所得数额以及被告人的前科情况、认罪悔罪态度等，依法判处罚金。罚金数额一般在违法所得的一倍以上五倍以下。

第十三条 本解释自2017年6月1日起施行。

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